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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/626,003	07/24/2003	Vivek Mehta	GP-302010	9919

7590 07/27/2005

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EXAMINER

TRAN, BINH Q

ART UNIT	PAPER NUMBER
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3748

DATE MAILED: 07/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/626,003	MEHTA ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	BINH Q. TRAN	3748	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 05/09/2005.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-4, 10 and 11 is/are pending in the application.
- 4a) Of the above claim(s) 3-4 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-2, 10-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

### **DETAILED ACTION**

This office action is in response to the election/restriction requirement filed May 09, 2005.

#### ***Response To Election/Restriction***

Applicant's election without traverse of the invention I filed on May 09, 2005 is acknowledged.

Claims 5-9, and 12-17 withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention III, there being no allowable generic or linking claim. Election was made without traverse in the reply filed on May 09, 2005.

During a telephone conversation with Mr. Damian Aquino (Reg. No. 54,964) on July 14, 2005 a provisional election was made without traverse to prosecute the invention of I, claims 1-2, and 10-11. Affirmation of this election must be made by applicant in replying to this Office Action. Claims 2-3 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Art Unit: 3748

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

*Claims 1-2, and 10-11 are rejected under 35 U.S.C. 102 (e) as being anticipated by Nishimura et al. (Nishimura) (Patent Number 6,560,960).*

Regarding claims 1 and 10, Nishimura discloses a method and apparatus for regulating a temperature of a catalytic converter (e.g. 32, 34) in a vehicle including an engine (1), comprising: defining a maximum temperature for the catalytic converter (e.g. See col. 12, lines 49-67; cols. 13-14, lines 1-67; col. 15, lines 1-39); defining a maximum engine speed threshold (e.g. See col. 10, lines 15-65); estimating the temperature of the catalytic converter; determining actual engine speed; and shutting off fuel to the engine if the estimated temperature of the catalytic converter is greater than the maximum temperature of the catalytic converter and the actual engine speed is greater than the maximum engine speed threshold (e.g. See col. 12, lines 49-67; cols. 13-14, lines 1-67; col. 15, lines 1-39).

Regarding claims 2 and 11, Nishimura further discloses the step of defining a minimum engine speed threshold; and turning on fuel to the engine if the actual engine speed is less than the minimum engine speed threshold (e.g. See col. 10, lines 15-67; cols. 11-12, lines 1-67).

#### ***Prior Art***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure and consists of five patents:

Art Unit: 3748

Yamashita et al. (Pat. No. 6725649), Cullen et al. (Pat. No. 5483941), Kitagawa et al. (Pat. No. 5678402), Cullen et al. (Pat. No. 5956941), and Kakuyama et al. (Pat. No. 6622479) all disclose an exhaust gas purification for use with an internal combustion engine.

### *Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Binh Tran whose telephone number is (571) 272-4865. The examiner can normally be reached on Monday-Friday from 8:30 a.m. to 5:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas E. Denion, can be reach on (571) 272-4859. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9306 for regular communications and for After Final communications.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

BT  
July 22, 2005



Binh Q. Tran  
Patent Examiner  
Art Unit 3748